

# Exhibit M

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11 **UNITED STATES DISTRICT COURT**  
12 **EASTERN DISTRICT OF WASHINGTON**

13 NICHOLAS ROLOVICH,

14 Plaintiff,

15 v.

16 WASHINGTON STATE

17 UNIVERSITY,  
Defendant.  
NO. 2:22-cv-00319-TOR  
**PLAINTIFF'S FIRST SET OF  
REQUESTS FOR ADMISSION TO  
DEFENDANT AND  
DEFENDANT'S ANSWERS AND  
OBJECTIONS THERETO**

18 In accordance with Federal Rule of Civil Procedure 36, Defendant  
19 Washington State University ("WSU") hereby submits these Answers and  
20 Objections ("Answers") to Plaintiff's First Set of Requests for Admission to  
21 Defendant ("Requests") as follows:  
22

PLF.'S FIRST SET OF REQUESTS  
FOR ADMISSION TO DEF. AND  
**DEF.'S ANSWERS AND  
OBJECTIONS THERETO**

1

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**Exhibit M Page 2**

1           **GENERAL OBJECTIONS APPLICABLE TO ALL ANSWERS**

2           1.       WSU objects to Plaintiff's characterization of the Requests as  
3       "continuing." WSU will respond to the specific Requests set forth herein and will  
4       supplement its Answers as necessary to comply with the Federal Rules of Civil  
5       Procedure. WSU reserves the right to modify or supplement these Answers as  
6       necessary.

7           2.       WSU objects to the Requests as vague, ambiguous, overbroad,  
8       unduly burdensome, duplicative, not relevant to any party's claims or defenses,  
9       and not proportional to the needs of the litigation. WSU specifically objects to  
10      the Requests' specified time period as overbroad in that it extends well after  
11      Plaintiff filed this lawsuit. Unless otherwise stated, these Answers pertain to the  
12      time period of January 1, 2020, to November 14, 2022.

13          3.       WSU objects to the Requests' definition of "You/Your" as vague,  
14       ambiguous, overbroad, not relevant to any party's claims or defenses, and not  
15       proportional to the needs of the litigation, including to the extent it purports to  
16       require WSU to obtain information from persons who either are not WSU  
17       employees or were not involved in WSU's actions challenged by Plaintiff. WSU  
18       understands these Requests to seek—and its Answers reflect—only information  
19       currently known by WSU.

1           4. WSU objects to the Requests to the extent they impose burdens or  
2 seek discovery beyond what is permitted or required under the Federal Rules of  
3 Civil Procedure, including Rules 26 and 36.

4           5. WSU objects to the Requests to the extent they call for information  
5 protected from disclosure by attorney-client privilege, the work product doctrine,  
6 or any other applicable privilege, protection, or immunity.

7           6. WSU objects to the Requests to the extent they seek information  
8 protected from disclosure by the Family Education Rights and Privacy Act  
9 (FERPA), 20 U.S.C. § 1232g, the Health Insurance Portability and  
10 Accountability Act (HIPAA), 42 U.S.C. § 1320d-6, or any other applicable  
11 privacy protection. WSU will only disclose such protected information consistent  
12 with the Stipulated Protective Order entered in this case. *See* ECF No. 61.

13           7. WSU objects to the Requests' use of the undefined phrase "the  
14 review committee" as vague and ambiguous. In these Answers, WSU uses the  
15 phrase "review committee" to refer to the following current or former WSU  
16 employees, two or more of whom conducted an initial, "blind" review of any  
17 employee request for a religious exemption with respect to Proclamation 21.14.1  
18 (including Plaintiff's request): Lisa Gehring, Bonnie Dennler, Teddi Phares, and  
19 Daniel Records. *See* WSU Ans. to Plf.'s Interrogatory No. 13.

20           8. The foregoing General Objections are incorporated by reference into  
21 the Answer to each Request. WSU not having listed specifically any one of its  
22

1 General Objections in response to a particular Interrogatory does not constitute a  
2 waiver of any objection, even if it could have been specifically stated.

3

4 **REQUESTS FOR ADMISSION**

5 **REQUEST FOR ADMISSION NO. 1:** Admit that the review committee  
6 found that Plaintiff described a sincerely held religious belief in his Request for  
7 Religious Exemption.

8 **ANSWER:** WSU objects to this Request as vague and ambiguous and on  
9 the other grounds set forth in its General Objections, especially as to the  
10 undefined phrases “review committee” and “described a sincerely held religious  
11 belief.” WSU further objects to this Request as irrelevant to any party’s claims  
12 or defenses.

13 Subject to and without waiving the foregoing objections, the Request is  
14 admitted in part, and denied in part. WSU admits that, after reviewing only the  
15 information Plaintiff submitted in writing on October 3, 2021, the review  
16 committee found the information contained therein sufficient at that stage of the  
17 accommodation process to “support the accommodation request based on a  
18 sincerely held religious belief.” Except as otherwise admitted, denied.

1           **REQUEST FOR ADMISSION NO. 2:** Admit that the review committee  
2 did not reach out to Plaintiff for follow-up information regarding the sincerity of  
3 his religious belief described in his Request for Religious Exemption.

4           **ANSWER:** WSU objects to this Request as vague and ambiguous and on  
5 the other grounds set forth in its General Objections, especially as to the lack of  
6 a specified time period and the vague use of the phrase “religious belief,” and the  
7 undefined and vague phrases “review committee,” “reach out,” and “follow-up  
8 information.” WSU further objects to this Request as irrelevant to any party’s  
9 claims or defenses.

10          Subject to and without waiving the foregoing objections, the Request is  
11 admitted in part, and denied in part. WSU admits that the review committee did  
12 not request additional information from Plaintiff regarding his asserted religious  
13 objection to the COVID-19 vaccines between the time he submitted materials in  
14 support of his religious accommodation request on October 3, 2021, and when  
15 WSU denied his request on October 18, 2021. Except as otherwise admitted,  
16 denied.

17  
18          **REQUEST FOR ADMISSION NO. 3:** Admit that the review committee,  
19 after a review of Plaintiff’s written and/or oral communications in his Request  
20 for Religious Exemption, determined that such communications supported  
21 Plaintiff’s accommodation request based on a sincerely held religious belief.

1           **ANSWER:** WSU objects to this Request as vague and ambiguous and on  
2 the other grounds set forth in its General Objections, especially as to the  
3 undefined and vague phrases “review committee” and “written and/or oral  
4 communications.” WSU further objects to this Request as irrelevant to any  
5 party’s claims or defenses.

6           Subject to and without waiving the foregoing objections, the Request is  
7 admitted in part, and denied in part. WSU admits that, after reviewing only the  
8 information Plaintiff submitted in writing on October 3, 2021, the review  
9 committee found the information contained therein sufficient at that stage of the  
10 accommodation process to “support the accommodation request based on a  
11 sincerely held religious belief.” Except as otherwise admitted, denied.  
12

13           **REQUEST FOR ADMISSION NO. 4:** Admit that the review committee  
14 did not contact Plaintiff for follow-up information related to his Request for  
15 Religious Exemption.

16           **ANSWER:** WSU objects to this Request as vague and ambiguous and on  
17 the other grounds set forth in its General Objections, especially as to the lack of  
18 a specified time period and the vague phrases “review committee” and “follow-  
19 up information related to his Request for Religious Exemption.” WSU further  
20 objects to this Request as irrelevant to any party’s claims or defenses.  
21

1        Subject to and without waiving the foregoing objections, the Request is  
2 admitted in part, and denied in part. WSU admits that the review committee did  
3 not request additional information from Plaintiff regarding his asserted religious  
4 objection to the COVID-19 vaccines between the time he submitted materials in  
5 support of his religious accommodation request on October 3, 2021, and when  
6 WSU denied his request on October 18, 2021. Except as otherwise admitted,  
7 denied.

8

9        **REQUEST FOR ADMISSION NO. 5:** Admit that the review committee  
10 contacted individuals other than Plaintiff for follow-up information to assess the  
11 sincerity of Plaintiff's religious belief described in his Request for Religious  
12 Exemption.

13

14        **ANSWER:** WSU objects to this Request as vague and ambiguous and on  
15 the other grounds set forth in its General Objections, especially as to the vague  
16 phrases "review committee," "follow-up information," and Plaintiff's  
17 unidentified "religious belief." WSU further objects to this Request as irrelevant  
18 to any party's claims or defenses. WSU further objects to this Request to the  
19 extent it calls for information protected from disclosure by attorney-client  
20 privilege, the work product doctrine, or any other applicable privilege protection,  
or immunity.

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1           Subject to and without waiving the foregoing objections, the Request is  
2 admitted in part, and denied in part. WSU admits that HRS invited and received  
3 information from the WSU Athletics Department concerning Plaintiff's religious  
4 accommodation request, including but not limited to information relevant to  
5 whether Plaintiff held sincere religious beliefs in conflict with vaccination against  
6 COVID-19. Except as otherwise expressly admitted, denied.

7

8           **REQUEST FOR ADMISSION NO. 6:** Admit that the review committee  
9 did not contact anyone in the WSU Athletic Department for follow-up  
10 information to assess the sincerity of Plaintiff's religious belief described in his  
11 Request for Religious Exemption.

12           **ANSWER:** WSU objects to this Request as vague and ambiguous and on  
13 the other grounds set forth in its General Objections, especially as to the vague  
14 phrases "review committee," "follow-up information," and Plaintiff's  
15 unidentified "religious belief." WSU further objects to this Request as irrelevant  
16 to any party's claims or defenses. WSU further objects to this Request to the  
17 extent it calls for information protected from disclosure by attorney-client  
18 privilege, the work product doctrine, or any other applicable privilege protection,  
19 or immunity.

20           Subject to and without waiving the foregoing objections, denied.

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1           **REQUEST FOR ADMISSION NO. 7:** Admit that the reversal of the  
2 review committee's determination that Plaintiff's Request for Religious  
3 Exemption described a sincerely held religious belief was the only instance in  
4 which the review committee's finding of sincerity was subsequently reversed.

5           **ANSWER:** WSU objects to this Request as vague and ambiguous and on  
6 the other grounds set forth in its General Objections, especially as to the vague  
7 and undefined phrases "review committee" and "reversal." WSU further objects  
8 to this Request as irrelevant to any party's claims or defenses.

9           Subject to and without waiving the foregoing objections, denied.

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11           **REQUEST FOR ADMISSION NO. 8:** Admit that WSU never prepared  
12 any documented analysis of the financial impact that would have resulted from  
13 granting an accommodation to Plaintiff's Request for Religious Exemption.

14           **ANSWER:** WSU objects to this Request as vague and ambiguous and on  
15 the other grounds set forth in its General Objections, especially as to the vague  
16 and undefined phrases "documented analysis" and "financial impact." WSU  
17 further objects to this Request as irrelevant to the claims or defenses in this case.

18           Subject to and without waiving the foregoing objections, denied.

1           **REQUEST FOR ADMISSION NO. 9:** Admit that WSU did nothing to  
2 verify the authenticity of vaccination cards that WSU Employees and students  
3 provided in response to the Vaccine Mandate.

4           **ANSWER:** WSU objects to this Request as vague and ambiguous and on  
5 the other grounds set forth in its General Objections, especially in its use of the  
6 phrase “WSU did nothing” and its suggestion that WSU students provided  
7 vaccination cards in response to the “Vaccine Mandate,” which the Requests  
8 define as “the COVID-19 vaccination that was mandate pursuant to the  
9 Governor’s Proclamation 21-14.1.” WSU further objects to this Request as  
10 irrelevant to any party’s claims or defenses.

11           Subject to and without waiving the foregoing objections, denied.  
12

13           **REQUEST FOR ADMISSION NO. 10:** Admit that WSU had no  
14 procedure for determining whether Employees or students provided fake  
15 vaccination cards in response to the Vaccine Mandate.

16           **ANSWER:** WSU objects to this Request as vague and ambiguous and on  
17 the other grounds set forth in its General Objections, especially in its use of the  
18 phrase “WSU had no procedure” and its suggestion that WSU students provided  
19 vaccination cards in response to the “Vaccine Mandate,” which the Requests  
20 define as “the COVID-19 vaccination that was mandate pursuant to the  
21

1 Governor's Proclamation 21-14.1." WSU further objects to this Request as  
2 irrelevant to the claims or defenses in this case.

3 Subject to and without waiving the foregoing objections, denied.  
4

5 **REQUEST FOR ADMISSION NO. 11:** Admit that WSU granted every  
6 Request for Religious Exception sought by any student-athlete participating in  
7 the football program.

8 **ANSWER:** WSU objects to this Request as vague, ambiguous and on the  
9 other grounds set forth in its General Objections, especially in its use of the  
10 undefined phrase "Request for Religious Exception," without any reference to  
11 whatever requirement from which an "[e]xception" was sought. WSU further  
12 objects to the Request as overbroad, unduly burdensome, and not proportional to  
13 the needs of the case, including because it is not limited by any relevant  
14 timeframe. WSU further objects to this Request as calling for information  
15 protected from disclosure by FERPA. WSU further objects to this Request as  
16 irrelevant to any party's claims or defenses.

17 Subject to and without waiving the foregoing objections, denied.  
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19 **REQUEST FOR ADMISSION NO. 12:** Admit that WSU granted every  
20 Request for Religious Exception by any student who sought an exception.  
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1           **ANSWER:** WSU objects to this Request as vague, ambiguous and on the  
2 other grounds set forth in its General Objections, especially in its use of the  
3 undefined phrase “Request for Religious Exception,” without any reference to  
4 whatever requirement from which an “[e]xception” was sought. WSU further  
5 objects to the Request as overbroad, unduly burdensome, and not proportional to  
6 the needs of the case, including because it is not limited by any relevant  
7 timeframe. WSU further objects to this Request as calling for information  
8 protected from disclosure by FERPA. WSU further objects to this Request as  
9 irrelevant to any party’s claims or defenses.

10           Subject to and without waiving the foregoing objections, denied.

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12           **REQUEST FOR ADMISSION NO. 13:** Admit that WSU’s Athletics  
13 Department utilized Cortex for communicating about medical and health-related  
14 issues, including Plaintiff’s vaccination status.

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16           **ANSWER:** WSU objects to this Request as vague and ambiguous and on  
17 the other grounds set forth in its General Objections, especially as to the vague  
18 and undefined phrase “medical and health-related issues.” WSU further objects  
19 to this Request as overbroad and unduly burdensome, including due to the lack  
20 of a specified timeframe, and to the extent it seeks information based on  
21 documents not within WSU’s possession, custody, or control. WSU further  
22 objects to the Request as seeking information protected from disclosure by

1 FERPA or HIPAA. Finally, WSU objects to the Request as seeking information  
2 irrelevant to any party's claims or defenses.

3 Subject to and without waiving the foregoing objections, the Request is  
4 admitted in part, denied in part. WSU admits that some WSU Athletics  
5 Department employees utilized, at times, Imprivata Context as a HIPAA-  
6 compliant text application for some student athlete-related "medical and health-  
7 related issues" in 2020, 2021, and 2022. Following a reasonable investigation,  
8 WSU denies that Context was used by WSU Athletics employees specifically to  
9 communicate about Plaintiff's vaccination status. Except as otherwise admitted,  
10 denied.

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DATED this 3rd day of September 2024.

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ROBERT W. FERGUSON  
Attorney General

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s/Zachary P. Pekelis  
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Attorneys for Defendant Washington State  
University

1                   **CERTIFICATE OF SERVICE**

2                   I hereby declare that on this day I caused the foregoing document to be  
3                   served upon all counsel of record.

4                   I declare under penalty of perjury under the laws of the State of  
5                   Washington and the United States that the foregoing is true and correct.

6                   DATED this 3rd day of September 2024, at Seattle, Washington.

7                   *s/Zachary J. Pekelis*  
8                   ZACHARY J. PEKELIS, WSBA #44557  
9                   Special Assistant Attorney General

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